

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RICKY WADE DAVIS, #173073,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:06-CV-10-MEF
)	
SGT. BRYANT et al.,)	
)	
Defendants.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

On February 21, 2008, the plaintiff, Ricky Wade Davis ["Davis"], filed a motion to dismiss in which he "moves to dismiss[] all defendants except defendant Sgt. Bryant." *Court Doc. No. 45* at 1. Davis concedes that defendants Campbell, Mosley, Baxley, Floyd, Williams, Prison Health Services, Inc., McKinley, Sconyers and Allen "had nothing to do with the assault committed upon [plaintiff] by defendant Bryant." *Id.* Davis also acknowledges that other than Sgt. Bryant he "isn't able to prove any claim of liability upon the remaining defendants...." *Id.* Upon consideration of the plaintiff's motion to dismiss, the court concludes that this motion is due to be granted.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that:

1. The motion to dismiss filed by the plaintiff on February 21, 2008 be GRANTED.

2. The plaintiff's claims against defendants Campbell, Mosley, Baxley, Floyd, Williams, Prison Health Services, Inc., McKinley, Sconyers and Allen be DISMISSED with prejudice.

3. Defendants Campbell, Mosley, Baxley, Floyd, Williams, Prison Health Services, Inc., McKinley, Sconyers and Allen be DISMISSED from this cause of action.

4. The plaintiff's claims against the remaining defendant, Sgt. Robert Bryant, be referred back to the undersigned for additional proceedings.

It is further

ORDERED that on or before March 6, 2008 the parties may file objections to the Recommendation. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which the party is objecting. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and advisements in the Magistrate Judge's Recommendation shall bar the party from a de novo determination by the District Court of issues covered in the Recommendation and shall bar the party from attacking on appeal factual findings in the Recommendation accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v.*

Wainwright, 677 F.2d 404 (5th Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981, *en banc*), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

_____ Done this 22nd day of February, 2008.

/s/Terry F. Moorner
TERRY F. MOORER
UNITED STATES MAGISTRATE JUDGE